

UNDERMINING SANCTIONS

EXECUTIVE SUMMARY

Evidence suggests scandal-hit billionaire Dan Gertler is trying to dodge US sanctions using a suspected money laundering network

2 July 2020



In December 2017, controversial mining magnate Dan Gertler had a problem. The United States had just sanctioned him for making his fortune through “corrupt mining deals” in the Democratic Republic of Congo (DRC), with the intention of ending Gertler’s lucrative career brokering deals between the Congolese state and some of the world’s largest multinational mining companies.

US sanctions would not only destroy Gertler’s reputation. They prohibited any American individual, bank or company from doing business with him. In today’s globalised world, where most international transactions are done in US dollars via US banks, this meant that even non-US entities would have to avoid doing business with Gertler.

For an international businessman like Dan Gertler, these sanctions were a financial death knell. They appeared to mark the end of an era in DRC’s mining sector – an era dominated by impunity and a lucrative alliance between Gertler and DRC’s long-time former President Joseph Kabila.

Having taken the reins of power in 2001, Kabila finally stepped down as president of DRC in early 2019, paving the way for the country’s first peaceful transition of power since independence in 1960. Yet DRC’s elections – delayed by two years in which Kabila clung to power beyond his constitutional mandate – were marred by irregularities. News of the election results was attended by rumours that incoming President Félix Tshisekedi had struck a deal with Kabila allowing him to retain political power and influence over many of DRC’s institutions. Kabila’s party dominates the country’s National Assembly, and forms part of a coalition government under Tshisekedi.

This report raises serious questions as to whether Dan Gertler has continued to operate freely in DRC’s mining sector despite the US sanctions against him and his companies. Gertler’s close connections to DRC’s political elite – foremost Kabila – and the apparent use of a series of fronts

and proxies to do business, may have helped the billionaire to evade and even undermine US sanctions. If so, this suggests that Kabila’s political influence has not much waned since Tshisekedi’s inauguration.

Our investigation reveals evidence indicating that between December 2017 and March 2019, Gertler may have used a money laundering network stretching from DRC to Europe and Israel to attempt to dodge US sanctions and continue acquiring mining assets in DRC.

Gertler first relocated his business interests from secretive offshore tax havens to DRC, where he gave them new company names.

Evidence seen by Global Witness and Platform to Protect Whistleblowers in Africa (PPLAAF) suggests that he may then have started working with an international money laundering network, comprised of individuals and entities who directed or owned sham companies in Europe, potentially allowing him to move his money after the sanctions impositions. These same individuals also incorporated companies in DRC immediately following the sanctions, despite having no prior connection to the country.

These actors set up accounts with Congolese branches of Cameroon-based Afriland First Bank. Those accounts received millions of dollars in cash deposits, often paid in by untraceable individuals or in the name of key players in the scheme – money that was then cycled through the system, often disguising its origin.

Evidence analysed by PPLAAF and Global Witness suggests this carefully designed system was used

extensively to move cash both within the DRC and abroad.

Significantly, our investigation also reveals that Gertler's apparent proxies secretly obtained mining rights for potentially valuable assets in the lead-up to DRC's 2018 elections. This suggests that, after the US sanctions were issued, Gertler did not simply seek to consolidate his fortune but may have continued expanding his business interests in DRC.

These mining licences were granted by state-owned mining company Gécamines – dubbed the 'black box of DRC' due to its disappearing mining revenues and a legacy of suspect and opaque mining deals, including several with Gertler.

Our report also shines a light on those individuals, banks and companies that may have supported and facilitated Gertler's evasion of US sanctions. It also outlines those who, in pursuit of profit, may have turned a blind eye to corruption and money laundering red flags.

Glencore, one of the world's largest multinational companies, continues to pay Gertler huge royalties to Gertler from historic deals despite the sanctions against him and the risk of finding itself sanctioned in the future.

Our investigation also suggests that Gertler continues to control a customs and logistics company that has business relationships with large mining companies, including Sino-Congolaise des Mines (Sicomines), the largest Chinese investment project in DRC, and the Eurasian Resources Group (ERG). The latter is already under investigation by the UK Serious Fraud Office (SFO) for its business dealings in the DRC, many of which involved Gertler.

Gertler made his fortune by acting as a gatekeeper to DRC's mining sector. International mining companies seeking access to Congolese minerals had to work with Gertler – with many willing to do so given the country's wealth in diamond, gold, copper and coltan deposits. DRC

also possesses the world's richest deposits of cobalt – a key mineral used in electric vehicles and other renewable energy technologies, which most economies will rely on to help tackle the climate crisis. Over the last 15 years, demand for cobalt has boomed, and the world's appetite for Congolese reserves has inspired hopes of development and significant future state revenues.

Yet despite its mineral wealth, DRC remains one of the poorest countries in the world, with over 72 percent of its population living on less than \$2 a day. Corruption and mismanagement more often see DRC mining revenues end up in offshore bank accounts than Treasury coffers, denying the Congolese people their right to the benefits that their resource wealth should ordinarily bring.

Gertler and other individuals and companies about whom Global Witness and PPLAAF found evidence suggesting concerted efforts to undermine the sanction have all strenuously denied any such endeavour. There has been no attempt or conspiracy to evade sanctions, they say: all activities are merely legitimate business operations, not linked to Gertler or sanctions-evasion. More detailed responses from those identified in the PPLAAF and Global Witness' investigation can be found here [hyperlink to report]. Glencore, Sicomines and ENG also deny any wrongdoing, or doing business with Gertler in violation of US sanctions.

The DRC government, competent authorities in other relevant jurisdictions and multinational companies must act now to ensure the responsible management of DRC's mining revenues. These revenues should benefit the Congolese people and contribute to funding much-needed infrastructure and public services, instead of just being siphoned off for the private benefit of a few suspect businessmen and politicians.

KEY FINDINGS

- > Dan Gertler appears to have had access to an international money laundering network to evade US sanctions. This network likely helped him funnel millions abroad and retain access to DRC's mining sector.
- > Evidence indicates that two companies which are likely to be fronts for Gertler secretly acquired new mining permits in the months leading up to the 2018 Congolese elections.
- > Afriland First Bank seems to have been central in setting up any scheme that enabled Gertler to evade US sanctions.
- > Large mining companies such as ERG and Sicomines continue to do business with a company likely linked to Gertler, despite US sanctions against him.
- > Commodity giant Glencore has continued to pay Gertler millions of euros in royalties from historic deals after sanctions were imposed.

KEY RECOMMENDATIONS

- > The DRC government should adopt provisional measures against Dan Gertler and instruct the seizure and freezing of all property belonging to him. The DRC should also halt and publish all deals with Gertler, as well as commission an independent audit of all state-owned mining companies, including Gécamines.
- > The US authorities should investigate any individuals, entities, companies and financial institutions that facilitated or colluded with Gertler to evade US sanctions, and those who continue to do business with him; and if found to have violated US law, take action against them, including via visa bans, designations, fines, freezing of assets or criminal indictments.
- > The EU must address any loopholes that have allowed its jurisdiction to become a safe haven for tainted money linked to Gertler by ensuring its proposed 'Magnitsky' sanctions regime includes corruption as a criteria; it should strengthen legislation on company

ownership and beneficial ownership disclosure.

- > International mining companies must halt all business with or payments to Gertler, and be held accountable for any deals with Gertler by relevant government agencies around the world.